IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

Tr.P(C).No. 292 of 2006()

(TO TRANSFER/WITHDRAW AS 116/2002 PENDING ON THE FILES OF SUB COURT, NORTH PRAVOOR TO THIS HON'BLE COURT FOR HEARING AND DISPOSAL OF THE SAME WITH A.S.136/2001 PENDING BEFORE THIS COURT)

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PETITIONERS/APPELLANTS/PLAINTIFFS

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1. K.P.KURIAKOSE, S/O. PATHROSE,
   KUZHIVELI HOUSE, PUTTUMANNOOR KARA,
   PUTHENCRUZ VILLAGE.

2. K.V.PAILY KUNJU, S/O. VARKEY,
   KANNETHU HOUSE, VADAYAMPADI KARA,
   AIKKARANADU SOUTH VILLAGE.

BY ADV. SRI.BIJU ABRAHAM

RESPONDENTS: RESPONDENTS/DEFENDANTS

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1. ST. PETER'S AND ST. PAUL'S ORTHODOX
   SYRIAN CHURCH, PUTHENCRUZ TOWN,
   PANNIKKUZHY KARA, PUTHENCRUZ VILLAGE, REP. BY
   VICAR, FR. ABRAHAM VALAYIL, VALAYIL HOUSE,
   ELAMKULAM KARA, AIKKARANADU SOUTH VILLAGE,
   KOLENCHERY P.O.

2. P.T.ITTAN PILLAI, S/O. THOMMAN,
   PAVUDATHU HOUSE, VADAYAMPADY KARA,
   AIKKARANADU SOUTH VILLAGE.

3. FR. ISSAC,
   EDAPPILLIMATTOM HOUSE, VADAVUCODE KARA,
   AIKKARANADU SOUTH VILLAGE.

4. P.C.YOHANNAN, S/O. PAILY,
   CHERUTHOTTIL HOUSE, PUTTUMANNOOR KARA,
   PUTHENCRUZ VILLAGE.

5. K.K.MATHAI, S/O. KURIAN,
   KAVANAL HOUSE, PUTTUMANOOR KARA,
   PUTHENCRUZ VILLAGE.

BY

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

Tr.P.(C)NO.292 OF 2006

DATED THIS THE 27th DAY OF NOVEMBER, 2006

ORDER

Petitioners are the appellants in A.S.116/02 on the file of Sub Court, North Paravoor. This petition is filed to call for that appeal to this Court to be heard along with A.S.136/01. The case of petitioner is that A.S.116/02 was filed challenging the decree and judgment in O.S.68/94 on the file of Munsiff Court, Perumbavoor and that suit was dismissed basing on the judgment in O.S.162/77 and that judgment is challenged in A.S.136/01 and therefore A.S.116/02 is also to be heard along with A.S.136/01. The argument of learned Counsel appearing for petitioners is that to prevent multiplicity of proceedings, it is necessary to order transfer.

2. On the facts, I do not find it is necessary to transfer A.S.116/02 to this Court to hear that appeal along with A.S.136/01. The apprehension of petitioners is that if A.S.116/02 is to be heard before the disposal of A.S.136/01, petitioners may have to prefer another appeal. I do not find it just or proper to order transfer to avoid the filing of a second appeal in A.S.116/02 by petitioners.

Petition dismissed.

M.SASIDHARAN NAMBIAR,JUDGE

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